

# HOUSE BILL 1034

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CF SB 633

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By: Delegates Costa, Benson, Bobo, Bronrott, Gaines, Guzzone, Hubbard, Kullen, Manno, Mizeur, Montgomery, ~~and Waldstreicher~~ Waldstreicher, Hixson, Hammen, Pendergrass, Elliott, Jenkins, Krebs, McDonough, Morhaim, Nathan-Pulliam, Reznik, Riley, Tarrant, and V. Turner

Introduced and read first time: February 15, 2010

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Community Services Reimbursement Rate Commission – Developmental**  
3 **Disabilities and Community Mental Health Services – Rate Adjustments**

4 FOR the purpose of requiring the Community Services Reimbursement Rate  
5 Commission to ~~develop a certain update formula for determining rates paid to~~  
6 ~~developmental disabilities service providers and community mental health~~  
7 ~~services providers~~ determine a weighted average cost structure of certain  
8 developmental disabilities service providers and community mental health  
9 services providers in a certain manner; requiring the Commission to include in  
10 a certain existing annual report an analysis of the impact of a certain ~~update~~  
11 ~~formula~~ annual inflationary cost adjustment on the financial condition of  
12 certain providers; requiring the Department of Health and Mental Hygiene to  
13 make a certain adjustment for inflation of the fees paid to certain providers  
14 ~~using a certain update formula~~ beginning in a certain fiscal year; requiring the  
15 Department to ensure that a certain annual inflationary cost adjustment is  
16 equivalent to certain other annual inflationary cost adjustments by using a  
17 certain weighted average cost structure; providing that certain annual  
18 inflationary cost adjustments used to establish a certain annual inflationary  
19 cost adjustment may not be less than a certain percentage; providing that a  
20 certain annual inflationary cost adjustment may not exceed a certain  
21 percentage; establishing the formula for the annual inflation rate adjustment  
22 for certain providers; requiring the Department to conduct a certain study in

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 consultation with certain stakeholders and to report its findings and  
2 recommendations to the General Assembly on or before certain dates; providing  
3 for the termination of this Act; and generally relating to the Community  
4 Services Reimbursement Rate Commission and provider rate adjustments.

5 BY repealing and reenacting, with amendments,  
6 Article – Health – General  
7 Section 13–806, 13–809, and 16–201.2  
8 Annotated Code of Maryland  
9 (2009 Replacement Volume)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Health – General**

13 13–806.

14 (a) The Commission shall assess:

15 (1) The extent and amount of uncompensated care delivered by  
16 providers;

17 (2) The level of and changes in wages paid by providers to direct  
18 support workers, including the source of revenue for wages paid by providers;

19 (3) The ability of providers to operate on a solvent basis in the delivery  
20 of effective and efficient services that are in the public interest;

21 (4) The incentives and disincentives:

22 (i) Incorporated in the rate setting methodologies utilized and  
23 proposed by the Mental Hygiene Administration and the Developmental Disabilities  
24 Administration; and

25 (ii) In alternative methodologies;

26 (5) How incentives to provide quality care can be built into a rate  
27 setting methodology; and

28 (6) The impact of changes in regulations that impact on the costs of  
29 providers and whether the rates have been adjusted to provide for any increased costs  
30 associated with the regulatory changes.

31 (b) The Commission shall:

1           (1) ~~Develop [or refine methodologies for calculating rate update factors~~  
 2 ~~for rates paid by the Developmental Disabilities Administration and the Mental~~  
 3 ~~Hygiene Administration and recommend annual rate update factors that use the~~  
 4 ~~methodologies that are developed]~~ ~~AN UPDATE FORMULA THAT IS EQUIVALENT TO~~  
 5 ~~THE COST ADJUSTMENTS FOR UNITS OF STATE GOVERNMENT IN THE~~  
 6 ~~GOVERNOR'S PROPOSED BUDGET BY~~ DETERMINE A WEIGHTED AVERAGE COST  
 7 STRUCTURE OF PROVIDERS BY:

8                       (I) STUDYING THE CATEGORIES OF COSTS USED BY THE  
 9 DEPARTMENT OF BUDGET AND MANAGEMENT IN THE BUDGETS OF UNITS OF  
 10 STATE GOVERNMENT; AND

11                      (II) ASSESSING THE AVERAGE COST STRUCTURE OF  
 12 PROVIDERS USING THE CATEGORIES OF COSTS USED BY THE DEPARTMENT OF  
 13 BUDGET AND MANAGEMENT FOR UNITS OF STATE GOVERNMENT; AND

14                      (III) ~~DETERMINING A WEIGHTED AVERAGE FORMULA BASED~~  
 15 ~~ON THE AVERAGE COST STRUCTURE OF PROVIDERS TO ALIGN ANNUAL COST~~  
 16 ~~ADJUSTMENTS FOR PROVIDERS WITH COST ADJUSTMENTS FOR UNITS OF STATE~~  
 17 ~~GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET;~~

18           (2) With respect to the Developmental Disabilities Administration,  
 19 review the data reported in the Developmental Disabilities Administration annual cost  
 20 reports and use the data to develop relative performance measures of providers; and

21           (3) Evaluate proposed regulatory changes by the Department, the  
 22 Developmental Disabilities Administration, and the Mental Hygiene Administration  
 23 that affect the rates paid or the rate structure.

24 13-809.

25           On or before October 1 of each year, the Commission shall issue a report to the  
 26 Governor, the Secretary, and, subject to § 2-1246 of the State Government Article, the  
 27 General Assembly that:

28           (1) Describes its findings regarding:

29                       (i) The changes in wages paid by providers to direct care  
 30 workers;

31                       (ii) The financial condition of providers [and], the ability of  
 32 providers to operate on a solvent basis in the delivery of effective and efficient services  
 33 that are in the public interest, ~~AND THE IMPACT OF THE UPDATE FORMULA~~  
 34 ANNUAL INFLATIONARY COST ADJUSTMENT AS SET FORTH IN § 13-806  
 35 § 16-201.2(D) OF THIS SUBTITLE ARTICLE, ON THE FINANCIAL CONDITION OF  
 36 PROVIDERS;

1 (iii) The incentives and disincentives incorporated in the rate  
 2 setting methodologies utilized and proposed by the Mental Hygiene Administration  
 3 and the Developmental Disabilities Administration and how the methodologies might  
 4 be improved;

5 (iv) How incentives to provide quality of care can be built into a  
 6 rate setting methodology; [and]

7 (v) The recommended ~~methodologies for the [calculation of rate~~  
 8 ~~update factors and the rate update factors recommended]~~ **UPDATE FORMULA,**  
 9 **WEIGHTED AVERAGE COST STRUCTURE OF PROVIDERS AS SET FORTH IN**  
 10 **§ 13-806 OF THIS SUBTITLE,** for the next succeeding fiscal year; AND

11 (VI) ANY ADDITIONAL RECOMMENDATIONS REGARDING  
 12 RATE-SETTING METHODOLOGIES TO ALIGN PROVIDER RATES WITH  
 13 REASONABLE COSTS;

14 (2) Recommends the need for any formal executive, judicial, or  
 15 legislative action;

16 (3) Describes issues in need of future study by the Commission; and

17 (4) Discusses any other matter that relates to the purposes of the  
 18 Commission under this subtitle.

19 16-201.2.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) “Community developmental disabilities services provider” means a  
 22 community-based developmental disabilities program licensed by the Department.

23 (3) “Community mental health services provider” means a  
 24 community-based mental health program approved by the Department or an  
 25 individual practitioner who contracts with the Department or the appropriate core  
 26 service agency.

27 (4) “Core service agency” has the meaning stated in § 10-1201 of this  
 28 article.

29 (5) “Eligible individual” means a Medicaid recipient or an individual  
 30 who receives developmental disabilities services or mental health services subsidized  
 31 in whole or in part by the State.

32 (b) Notwithstanding the provisions of this subtitle, the Department shall  
 33 reimburse a community developmental disabilities services provider or a community

1 mental health services provider for approved services rendered to an eligible  
2 individual as provided in this section.

3 (c) (1) [Subject to the limitations of the State budget, beginning]  
4 **BEGINNING** in fiscal year [2008] **2012** and in each fiscal year thereafter, the  
5 Department shall adjust for inflation the fees paid to a community developmental  
6 disabilities services provider and a community mental health services provider for  
7 approved services rendered to an eligible individual ~~using the update [factor]~~  
8 ~~FORMULA SET FORTH IN § 13-806 OF THIS ARTICLE~~ recommended by the  
9 ~~Community Services Reimbursement Rate Commission.~~

10 (2) THE DEPARTMENT SHALL ESTABLISH AN ANNUAL  
11 INFLATIONARY COST ADJUSTMENT FOR PROVIDERS THAT SHALL BE ALIGNED  
12 WITH THE ANNUAL COST ADJUSTMENTS FOR UNITS OF STATE GOVERNMENT IN  
13 THE GOVERNOR'S PROPOSED BUDGET.

14 (3) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS SUBSECTION,  
15 THE DEPARTMENT SHALL ENSURE THAT THE ANNUAL INFLATIONARY COST  
16 ADJUSTMENT FOR PROVIDERS IS EQUIVALENT TO THE ANNUAL INFLATIONARY  
17 COST ADJUSTMENTS FOR CATEGORIES OF COSTS FOR UNITS OF STATE  
18 GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET BY USING THE  
19 WEIGHTED AVERAGE COST STRUCTURE SET FORTH IN § 13-806(B)(1) OF THIS  
20 ARTICLE.

21 (4) THE ANNUAL INFLATIONARY COST ADJUSTMENTS FOR  
22 CATEGORIES OF COSTS FOR UNITS OF STATE GOVERNMENT USED TO ESTABLISH  
23 THE ANNUAL INFLATIONARY COST ADJUSTMENT FOR PROVIDERS MAY NOT BE  
24 LESS THAN 0%.

25 (5) THE ANNUAL INFLATIONARY COST ADJUSTMENT FOR  
26 PROVIDERS MAY NOT EXCEED A MAXIMUM ADJUSTMENT OF 4%.

27 ~~(2) THE ANNUAL INFLATION RATE ADJUSTMENT FOR~~  
28 ~~DEVELOPMENTAL DISABILITY AND MENTAL HEALTH COMMUNITY PROVIDERS~~  
29 ~~SHALL BE EQUIVALENT TO THE COST ADJUSTMENTS FOR CATEGORIES OF COSTS~~  
30 ~~FOR UNITS OF STATE GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET.~~

31 [(2)] ~~(3)~~ (6) Annual adjustments shall be funded with due regard to the  
32 expenditures necessary to meet the needs of individuals receiving services.

33 [(3) The annual rate of change for the fees may not exceed a maximum  
34 rate of 5%.]

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of  
36 Health and Mental Hygiene shall:

1        (a) (1) conduct a study, in consultation with community services  
2 stakeholders, including the Maryland Association of Community Services and the  
3 Community Behavioral Health Association of Maryland, for purposes of  
4 recommending a plan to develop, and a timeline to implement, a rate-setting  
5 methodology for community developmental disabilities and mental health services  
6 providers that would:

7                    (i) promote the fiscally sound and efficient operation of  
8 community services providers; and

9                    (ii) promote the highest level of quality of care for individuals  
10 with developmental disabilities and mental illness;

11        (2) include in the study an analysis of:

12                    (i) the operating costs of community services providers;

13                    (ii) the ability of community services providers to attract and  
14 retain a high quality work force;

15                    (iii) any appropriate and feasible incentives for high quality  
16 performance of community services providers;

17                    (iv) any capital infrastructure needs of community services  
18 providers;

19                    (v) transportation costs of community services providers;

20                    (vi) the appropriate future role of the Community Services  
21 Reimbursement Rate Commission and other entities involved in State rate-setting  
22 processes; and

23                    (vii) any other issues related to the efficient and effective  
24 provision of community services; and

25        (b) (1) on or before December 1, 2012, report its preliminary findings and  
26 recommendations to the General Assembly, in accordance with § 2-1246 of the State  
27 Government Article; and

28        (2) on or before January 1, 2013, report its findings and  
29 recommendations to the General Assembly, in accordance with § 2-1246 of the State  
30 Government Article.

31        SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
32 effect October 1, 2010. It shall remain effective for a period of 5 years and 9 months

1 and, at the end of June 30, 2016, with no further action required by the General  
2 Assembly, this Act shall be abrogated and of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.